THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.6388 OF 1998

DATED: 17-01-2007

Between :

P. Srinivasa Reddy .. Petitioner

And

1. The Secretary to Government, G.A. Department, Secretariat, Hyderabad and 3 others. ... Respondents

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ORDER :

The petitioner claims to be the owner of 30 acres of agricultural land situated in different survey numbers in Mucharla Nagaram Village, Hasanparthy Mandal, Warangal District.

It is pleaded that on 28-1-1996 at about 11.00 am the Cotton crop raised by him in 11 acres of land was damaged by the extremists. The Hasanparthy Police had registered Cr.No.16 of 1996 suo motu and the investigation was taken up. That apart, pursuant to the directions of the Collector, Warangal, the concerned authorities estimated the damage at Rs.2 lakhs and submitted a report to that effect. However, since no further action was taken, the petitioner submitted a representation on 31-8-1996. In response, vide proceedings dated 5-8-1997 the petitioner was informed that since the Government Memo dated 16-8-1995 did not provide for payment of damages in respect of the standing crop, no exgratia can be paid to the petitioner for the damage caused on account of extremists' violence. Aggrieved by the same, this writ petition is filed.

In the counter-affidavit filed on behalf of the respondents, the fact that the Cotton crop raised by the petitioner in 11 acres of land was damaged on 28-1-1996 by the extremists has not been disputed. However, it is contended that there is no provision to make payment of any exgratia or compensation to the owners for the damage caused to the standing crops on account of extremists' violence as clarified in the Government Memo dated 16-8-1995. It is also pleaded that the

petitioner's claim on the basis of G.O.Ms.No.70, dated 22-6-1996 cannot be accepted since the incident in question occurred on 28-1-1996 much prior to G.O.Ms.No.70.

I have heard the learned Counsel for both the parties and perused the material on record.

The material on record shows that after careful examination of the requests received from the public and public representatives, the Government issued G.O.Ms.No.139, dated 13-3-1992, G.O.Ms.No.648, dated 24-11-1992 and G.O.Ms.No.411, dated 28-8-1994 granting relief by payment of exgratia to the victims of extremists' violence i.e., to the kin of those killed, permanently incapacitated, seriously injured and towards damages caused to the movable and immovable properties by the extremists at the rates specified therein. Subsequently, it was decided to enhance the exgratia and accordingly G.O.Ms.No.70, dated 22-6-1996 was issued. Though clause-4 of G.O.Ms.No.70 provides that the relief of exgratia shall be provided only in the case of Civilians and that the Government Employees and Police Personnel are not entitled for the said relief, admittedly, the relief of payment of exgratia under the above mentioned orders includes the damage caused to the properties.

In the case on hand, though it is not in dispute that the standing crop of the petitioner was damaged due to extremists' violence, the request of the petitioner was rejected only on the ground that the Government Orders, noted above, did not provide for payment of exgratia for damage caused to the standing crop.

The law is well settled that the word 'property' is wide enough to include property of every description movable or immovable, both real and personal. In the Law Dictionaries the term 'property' is defined as being the right to possess, use, enjoy and dispose of a thing, which may not always have a tangible or physical existence. It may even be an easement or anything else that can become the

subject of private ownership.

Section 3 (26) of the General Clauses Act, 1897 defines immovable property, according to which the immovable property shall include land as well as benefits to arise out of the land. Section 3 (36) of the General Clauses Act, 1897 defines the expression 'movable property' so as to include property of every description except immovable property. In the light of the wide scope given to the expression 'property', there is absolutely no justifiable reason to hold that the standing crop is not a property. Hence, the ground on which the request of the petitioner for payment of compensation was rejected, on the face of it, is unsustainable. The ground mentioned in the counter-affidavit that G.O.Ms.No.70, dated 22-6-1996 cannot be applied to the petitioner's case since the damage was caused much prior to the said G.O. is also unsustainable. As noted above, the exgratia was provided under various Government Orders issued from time to time during the years 1992 and 1994. G.O.Ms.No.70, dated 22-6-1996 provides for only enhancement of such exgratia. Hence, the rejection of the petitioner's request for payment of exgratia under the Memo dated 5-8-1997 is arbitrary and illegal.

Accordingly, the impugned Memo dated 5-8-1997 is set aside and the Writ Petition is disposed of with a direction to the respondent No.3 to consider the request of the petitioner in the light of the relevant Government Orders and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of 3 months from the date of receipt of this order. It is made clear that this Court has not expressed any opinion as to the entitlement of the petitioner or with regard to quantum of compensation and it is open to the respondents to pass appropriate orders on merits.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 17-1-2007

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